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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,997	10/12/2004	Wolfgang Bremser	PAT-00361	6692
26922	7590	11/28/2007		
BASF CORPORATION Patent Department 1609 BIDDLE AVENUE MAIN BUILDING WYANDOTTE, MI 48192			EXAMINER SASTRI, SATYA B	
			ART UNIT 1796	PAPER NUMBER
			NOTIFICATION DATE 11/28/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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## Office Action Summary

**Application No.**

10/510,997

**Applicant(s)**

BREMSER ET AL.

**Examiner**

Satya B. Sastri

**Art Unit**

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 September 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-9, 12, 13 and 26 is/are allowed.
- 6) ☒ Claim(s) 1-5, 10, 11 and 14-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This office action is in response to amendment filed on September 18, 2007. Claims 1-26 are now pending in the application.

2. Applicants arguments have been fully considered but are not found persuasive and therefore, rejection of claims 1, 2, 4, 5, 10, 11, 14, 15, 16, 17, 18, 22, 23, 24, 25 under 35 U.S.C. 103(a) as being unpatentable over Kamo et al. (US 6,589,324 B2) and rejection of claims 1-5, 10, 11, 14-25 under 35 U.S.C. 103(a) as being unpatentable over Kambe et al. (US 6,599,631 B2) are all sustained. Additionally, allowability indicated for claims 6, 9, 13 and 26 and amended claim 12 is maintained.

### ***Allowable Subject Matter***

3. Claim 12 is allowed.

Presently cited claim is allowable over closest prior art of record to Kamo et al. (US 6,589,324 B2) and Kambe et al. (US 6,599,631 B2). Neither art discloses aqueous dispersions comprising polymers as recited in instant claim.

### ***Response to Arguments***

4. Applicants' argue that a prima facie case of obviousness has not been met because Kamo et al. do not explicitly teach an aqueous dispersion comprises at least one swellable polymer.

Examiner notes that Kamo et al. discloses an acrylic resin containing hydroxyl and/or carboxyl groups so as to disperse the resin in aqueous solvent (col. 7, lines 20-30). Additionally, the disclosed solvents compatible with water include propanol and isopropanol (col. 18, lines 38-42). Given that a substantially overlapping pH range of 1.5-3.5 is disclosed, and given that the compositional requirements are met, the acrylic resin must be swellable as recited in instant claim 1.

With regard to applicant's arguments on the phosphorus compound in the compositions of Kamo et al., as correctly pointed out by the applicant, the transitional phrase "comprising" in the instant claim language does not exclude the phosphorus compound from the presently claimed composition. Thus, examiner contends that Kamo et al. does not teach away from the present invention despite the presence of phosphorus compound in Kamo's compositions.

Applicants argue that the prior art to Kambe et al. uses cosolvent where as the present invention claims an aqueous dispersion. Given that Kambe et al. teach nonaqueous solvent or aqueous solutions with less polar solvents, alcohol-based dispersants and anionic polymers as well as polymers with hydrophilic group, and given that an amphiphile as recited in present claims reads on solvents less polar than water and alcohol-based dispersants, examiner maintains that the combination must result in an aqueous dispersion. Additionally, although the prior art is open to use of alcohols with no specific amounts recited, cosolvents are typically used in small amounts and therefore, the amount of 1-10% as presently claimed is obvious to a skilled artisan, absent evidence to criticality of the claimed range.

***Action Is Final***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Future Correspondence***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Satya Sastri whose telephone number is 571-272-1112.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on 571-272-1302. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular

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communications. The unofficial direct fax phone number to the Examiner's desk is 571-273-1112.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Satya Sastri*  
SATYA SASTRI

November 14, 2007

*Randy Gulakowski*  
RANDY GULAKOWSKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700